HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Appeal No.5 of 2007

-
-

Between:

M/s.Abhinandana Housing (P) Ltd.,
represented by its Chairman,
Hyderabad. …Appellant.

And

State of Andhra Pradesh,
represented by its Principal Secretary,
Revenue Department,
Hyderabad and another.

……
Respondents.

:: J U D G M E N T ::

Counsel for the appellant : Sri Sivaraju Srinivas

Counsel for the respondents : Government Pleader for Land Acquisition.

3rd January, 2007

Per G.S.Singhvi, C.J.

Feeling aggrieved by the dismissal of the writ petition filed by it

for quashing communication dated 19-9-2006 sent by Special Deputy Collector (Land Acquisition), International Airport, Shamshabad (respondent No.2) declining its prayer for allotment of alternative land in terms of Section 31(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), the appellant has preferred this appeal.

The appellant is a company incorporated under the Companies Act, 1956. It claims to have purchased Ac.17.31 guntas of land comprised in Survey No.67 of Adibhatla Village, Ibrahimpatnam Mandal, Ranga Reddy District. This land forms part of Ac.39.29 guntas of land acquired by the government for expansion of Hardware Park by Andhra Pradesh Industrial Infrastructure Corporation Ltd. For this purpose, notification dated 4-2-2005 was issued by Collector, Ranga Reddy District under Section 4(1) of the Act. This was followed by declaration under Section 6, which was published in the Andhra Pradesh Gazette Extraordinary dated 6-6-2005. After completing the necessary formalities, respondent No.2 passed Award No.C/484/2004, dated 23-2-2006 for payment of compensation to the land owners. Immediately thereafter, notices dated 25-2-2006 were issued to the owners under Section 12(2) of the Act. The appellant submitted objection petitions dated 7-5-2005 and 5-12-2005 and then made representations dated 7-9-2006 and 15-9-2006 for allotment of alternative land to the plot owners by asserting that the land purchased by it had been allotted to large number of persons belonging to middle and lower income groups. Respondent No.2 declined the appellant's request on the ground that there is no provision in the Act for allotment of alternative land and also on the ground that the award has already been passed for payment of compensation to the land owners. This was conveyed to the Chairman of the appellant vide letter dated 19-9-2006.

The writ petition filed by the appellant questioning the decision of respondent No.2 was dismissed by the learned Single Judge with an observation that the Court cannot compel respondent No.2 to exercise power under Section 31(3) of the Act for allotment of alternative land to the persons whose land is acquired under the Act. The learned Single Judge relied on the judgments of the Supreme Court in **Jaipur Development v. Radhey Shyam**[1], **Secy., Jaipur Development Authority v. Daulat Mal Jain**[2], **Jage Ram and others v Union of India**[3] and an unreported order of another learned Single Judge of this Court in **Rock View Enclave Grey Hounds Employees Mutually Aided Housing Society Ltd., v The Secretary, Government of A.P.** – Writ Petition No.17271 of 2006, decided on 23-8-2006, and held that a mandamus cannot be issued for compelling a public authority to exercise its discretion in the particular manner.

Sri Sivaraju Srinivas argued that the rejection of the appellant's request for allotment of alternative land to the plot owners is totally bereft of reasons and the learned Single Judge gravely erred by non-suiting his client without considering the issue in a correct perspective. Learned counsel emphasized that even though the decision of the application filed under Section 31(3) does not involve adjudication of lis between the parties, respondent No.2 was duty-bound to act judiciously and assign cogent reasons for not accepting the request made on behalf of the appellant for allotment alternative land. He submitted that after purchasing the land, the appellant had allotted the same to large number of persons belonging to middle and lower middle class and, therefore, respondent No.2 should have allotted alternative land to the plot holders.

Learned Government Pleader supported the order under

challenge and argued that the learned Single Judge did not commit any error by refusing to entertain the appellant's prayer for allotment of alternative land to the plot owners. He submitted that after having sold the land to its so-called members, the appellant does not have the locus to seek allotment of alternative land or espouse the cause of plot holders by filing writ petition under Article 226 of the Constitution.

We have given serious thought to the matter. Section 31 of the Act, which regulates payment of compensation or deposit of the same in court reads as under:

> **"31. Payment of compensation or deposit of same in Court.**
> (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.
> (2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under Section 18 would be submitted: Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:
>
> Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under Section 18:
>
> Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.
> (3) Notwithstanding anything in this Section the Collector may, with the sanction of the appropriate government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the

> remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interest of the parties concerned.
> (4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof."

Sub-section (3) of Section 31, which begins with a non-obstante clause, confers discretion upon the Collector to make any arrangement with a person having a limited interest in the acquired land either by the grant of other lands in exchange, the remission of land revenue on other lands under the same title or in any other equitable way. The Collector can exercise this power with the sanction of the appropriate government. To put it differently, the Collector can, instead of awarding monetary compensation in respect of the acquired land, allot alternative relief to a person having limited interest in the acquired land either by the grant of other land in accordance with law or by the remission of land revenue on other lands held under the same title or in a like equitable manner. There is nothing in the language of Section 31(3) from which it can be inferred that the Collector is duty-bound to allot alternative land to the land owners in each and every case. The use of the word 'may' in sub- section (3) is sufficient to negate the theory sought to be propounded by the learned counsel that the Collector is under an obligation to allot alternative site or land to the persons whose land is acquired under Section 4 of the Act.

In the present case, we find that after finalization of the acquisition proceedings, respondent No.2 passed award dated 23-2-2006 for payment of compensation. The persons to whom plots are said to have been allotted by the appellant neither challenged the award passed by respondent No.2 nor did they apply for allotment of

alternative land. Instead, the appellant made applications for this purpose after a gap of almost seven months, which were rejected by respondent No.2 primarily on the ground that the award had already been made and compensation payable to the land owners had been deposited.

In our opinion, even though respondent No.2 has not assigned detailed reasons for not entertaining the appellant's claim for allotment of alternative land, his decision cannot be faulted as arbitrary or unreasonable because, as mentioned above, Section 31 of the Act does not impose a duty on the Collector to allot alternative land to each and every land-holder.

We are further of the view that the appellant does not have the locus to seek a direction for allotment of alternative land to the plot owners. As per the appellant's own showing (applications dated 7-9-2006 and 15-9-2006) that after developing the land, it had allotted plots to different members. After allotment of land to the members, the appellant ceased to have any right over the land. Therefore, there is no valid ground to accept its prayer for allotment of alternative land.

No other point has been argued.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.5 of 2007 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, C.J.

3rd January, 2007.

C.V.NAGARJUNA REDDY, J.

ARS

[1] (1994) 4 SCC 370

[2] (1997) 1 SCC 35

[3] 1995 Supp.(4) SCC 615